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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,374	09/12/2003	James A. Helzer	2256.1002-001	6682
21005	7590	07/06/2005	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,374

Applicant(s)

HELZER ET AL.

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 3,4,16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/4/04, 10/18/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-4, 8-9 and 15-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 3, line 1, "apparatus for rotatably **adhering** the flange" is inconsistent with claim 1, line 17.

In claim 8, lines 1-2, the "third support layer" lacks antecedent basis from claim 1.

In claim 15, line 4, "perimeter of capsule" is ungrammatical. In line 6, "the layer" lacks antecedent basis for one particular layer. In line 10, "the two layers of support material" lack antecedent basis, or consistency with line 5. See also claim 18, line 4. In line 11, "the first and second layers" lack antecedent basis, or consistency with line 5. See also claim 19, line 1. In lines 13, 14-15 and 16, "the first and second support layers" lack antecedent basis, or consistency with line 5. It appears two layers are defined by at least three different terms.

In claim 16, line 4, "the layer" lacks antecedent basis for one such layer.

In claim 21, a "first support layer" and a "second support layer" are defined and then referred to by alternative nomenclature throughout the claim. Once defined, elements should be consistently referred to through the independent claim and its dependent claims.

In claim 22, line 1, "said capsules" lack antecedent basis for plural capsules being previously defined.

In claim 23, line 1, "the dimension" is indefinite, as various "dimensions" are defined in claim 21.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 10-12, 14 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Allison et al. (2,971,638). Disclosed is a display for a collectible item (a pill), comprising a bubble (30) which encapsulates a collectible item (31) and comprising a flange (portion of 32 lying between 20 and 21), a first support layer (20) comprising an opening (24), a second support layer (21) and an apparatus (29 and the separation of the support layers along the periphery of the opening (24)) for rotatably securing the flange of the bubble between the support layers.

As to claim 2, an opening (27) in the second layer is disclosed.

As to claim 12, adhesive joins the support layers.

As to claims 14 and 22, a plurality of bubbles (30) is disclosed.

5. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Allison et al.. The structure of Allison et al. is explained above. The method recited is merely providing the structure of Allison et al.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5-9, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison et al. as applied to claims 1 and 15 above, and further in view of Burdick (3,199,666). Burdick discloses encapsulating a coin in a similar display and providing an intermediate third layer (2) between two outer layers. To employ the structure for coins would have been a mere substitution of contents. To employ an intermediate third layer in a display was known by Burdick and to merely incorporate additional layers in the structure would fail to distinguish any new and unexpected result.

8. Claims 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison et al.. Official notice is taken that heat and pressure-activated adhesive was known to join adjacent layers of analogous structures.

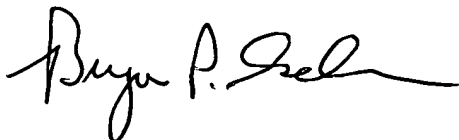
9. Claims 3 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of

the limitations of the base claim and any intervening claims. Dependent claims 4 and 17 would also then be allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 until July 14, 2005, and will thereafter be 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728